

# Calendar No., 1346.

52D CONGRESS, }  
2d Session. }

SENATE.

{ REPORT  
No. 1295.

## IN THE SENATE OF THE UNITED STATES.

FEBRUARY 15, 1893.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Claims, submitted the following

### REPORT:

[To accompany S. 3863.]

The Committee on Claims, to whom was referred the bill (S. 3863) for the relief of George Q. Cannon, of Utah, having had the same under consideration, beg to submit the following report:

This bill proposes to authorize and direct the Secretary of the Treasury to pay to George Q. Cannon, of Utah Territory, the sum of \$25,000, alleged to have been paid by said Cannon as a penalty on a forfeited bail bond given by him in February, 1886, conditioned for his appearance in the United States district court at Salt Lake City, Utah, to answer a certain alleged criminal offense. The facts out of which this claim grew, and on which it is based are fully set out in Senate Ex. Doc. No. 43, Fifty-second Congress, second session, hereto attached as an appendix and made a part of this report.

In view of the facts as therein stated and of the recommendations of the Solicitor of the Treasury and of the Secretary of the Treasury, respectively, as contained in said executive document, your committee are of the opinion that the said sum of \$25,000 should be refunded to claimant. Senate bill 3863 is therefore reported back with the following amendment, and as so amended its passage is recommended:

Insert after the word "Utah," in line 4, the following: "Out of any moneys in the Treasury not otherwise appropriated."

[Senate Ex. Doc. No. 43, Fifty-second Congress, second session.]

LETTER FROM THE SECRETARY OF THE TREASURY, INCLOSING PAPERS  
IN THE CLAIM OF GEORGE Q. CANNON FOR MONEY COVERED INTO  
THE TREASURY ON A FORFEITED BOND.

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FEBRUARY 4, 1893.—Referred to the Committee on Claims and ordered to be printed.

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TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
*Washington, D. C., February 3, 1893.*

SIR: I have the honor to inclose herewith a paper entitled "Grounds of the claim of George Q. Cannon, of Utah, to recover \$25,000 covered into the Treasury of the United States on a forfeited bond," together with a copy of a letter dated the 2d instant from the Solicitor of the Treasury, to whom said paper was referred.

Mr. Cannon, as will be seen, petitions Congress for the return of the sum of \$25,000, which he paid on a forfeited bail bond given in February, 1886, for his appearance in the United States district court at Salt Lake City, under an indictment for a violation of the so-called Edmunds law.

I find that the amount named (\$25,000) was deposited April 13, 1886, and was afterwards received and covered into the Treasury.

Two other bail bonds were given at the same time with the one above named, in the sum of \$10,000 each, both of which were forfeited, and judgments entered for the same with interest. These two judgments were compromised March 30, 1892, by the Secretary of the Treasury, under section 3469 of the Revised Statutes, upon the recommendation of the United States attorney in charge of the cases and the Solicitor of the Treasury, for reasons set forth in the solicitor's letter, a copy of which is herewith transmitted.

The solicitor in that letter says:

I have no hesitation in saying that under all of the circumstances I think it would be no more than just if Congress in its wisdom should see proper to reimburse him of some part or the whole of the sum of \$25,000 paid by him upon the forfeiture of the larger of the three bonds.

Upon a review of the circumstances of the case, as set forth in the inclosed papers, I concur in the solicitor's opinion.

Respectfully, yours,

CHARLES FOSTER,  
*Secretary.*

HON. LEVI P. MORTON,  
*President of the Senate, Washington, D. C.*

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DEPARTMENT OF JUSTICE,  
OFFICE OF THE SOLICITOR OF THE TREASURY,  
*Washington, D. C., February 2, 1893.*

SIR: I have before me a paper entitled "Grounds of the claim of George Q. Cannon, of Utah, to recover \$25,000, covered into the United States Treasury on a forfeited bond," referred for my examination by you under date of January 31. I return herewith the paper.

Some months ago it became my duty to familiarize myself with many of the facts stated in this paper, Mr. Cannon, at that time, having made a proffer to compromise the judgments obtained against him upon two of the bonds referred to by him in the paper herewith returned. Upon that compromise I had the honor to address you a letter. I take the liberty of incorporating it in this communication. It was as follows:

I have before me the application of Messrs. George Q. Cannon, Francis Armstrong, and of the administrators of Horace S. Eldredge, asking to compromise two judgments, each in the sum of \$10,538.90 with interest at 10 per cent per annum from October 18, 1886, rendered by the district court of the third judicial district of the Territory of Utah, on the date last above mentioned, against said Cannon as principal and Armstrong and Eldredge as sureties upon two appearance bonds previously executed by said parties. I attach the petition for compromise to this paper, as it states what I believe to be the facts in the case. I also attach a telegraphic dispatch from Mr. C. S. Varian, United States attorney for Utah, who is familiar with the proposition of compromise, and who says in said dispatch, "I recommend acceptance of Cannon's offer to compromise, for reasons stated in letter to Attorney-General of October 19." I also attach the letter referred to, which recapitulates facts involved substantially as stated in the petition. On file in the office of the honorable the Attorney-General are letters from George L. Godfrey, R. S. Robertson, and Alvin Saunders, members of the Utah Commission, Hon. A. L. Thomas, governor, and Hon. Charles S. Zane, one of the Territorial judges of Utah, all recommending that Mr. Cannon and his sureties be relieved from said judgment. At the time these bonds were given, Mr. Cannon was under arrest, charged with three offenses, the aggregate punishment of which under the law could not have exceeded eighteen months' imprisonment and \$900 fine. In addition to the two bonds, the basis of the judgments above referred to, he had entered into a third recognizance in the sum of \$25,000. This recognizance having been forfeited, the sum of \$25,000 was paid by him without suit.

It seems to me very extraordinary that the court should require bail in the large sum of \$45,000 for offenses where the punishment would be comparatively meager; and in view of the fact of the payment of \$25,000 by Mr. Cannon, and in view of the fact that two indictments in the cases in which bail was given were dismissed by the district attorney, and that Mr. Cannon has fully answered the third indictment, filing his plea of guilty and submitted himself to the punishment of the court, I join in the recommendation of the district attorney, that this compromise be accepted.

All of the costs have been paid by the petitioner, and the \$250 offer in the compromise has been paid into the hands of the United States Treasurer. I therefore suggest that I be directed to instruct the district attorney of Utah to enter satisfaction of the two judgments referred to upon the dockets of the district court for the third judicial district of Utah as soon as the appeal of the petitioner to the Supreme Court of the United States is dismissed and the necessary order sent down from that court.

I am not quite certain of the purpose of the reference of Mr. Cannon's paper to me at this time, but if it is for the purpose of securing from me my views as to the justice of his claim, I have no hesitation

in saying that under all the circumstances I think it would be no more than just if Congress in its wisdom should see proper to reimburse him of some part or the whole of the sum of \$25,000 paid by him upon the forfeiture of the larger of the three bonds.

Very respectfully, your obedient servant,

W. P. HEPBURN,  
*Solicitor.*

Hon. CHARLES FOSTER,  
*Secretary of the Treasury.*

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*Grounds of the claim of George Q. Cannon, of Utah, to recover \$25,000 covered into the Treasury of the United States on a forfeited bond.*

In February, 1886, George Q. Cannon was, before the judge of the United States district court at Salt Lake City, placed under three bonds amounting to \$45,000, to answer certain indictments charging him with unlawful cohabitation. For reasons which will appear he failed to respond when called in court, and the three bonds for \$25,000, \$10,000, and \$10,000, respectively, were declared to be forfeited. The amount of the first bond, \$25,000, was covered into the Treasury of the United States by his bondsmen, whom he afterwards reimbursed. Suit for the other two was carried to the Supreme Court, but was dismissed. In the meantime he voluntarily appeared in the United States district court at Salt Lake to answer any charges which might exist against him.

He plead guilty to two separate indictments for unlawful cohabitation, and was sentenced and punished thereunder. But the indictment—to answer which the bond of \$25,000 had been given—was not deemed sufficiently tenable, and was dismissed by the court on motion of the United States district attorney. The result having proved the lack of legal merit in the original proceeding, and he having made voluntary submission to the court at a later time, he claims that the sum of \$25,000 should be returned to him by Government; and as a further and stronger reason for this act of justice, he submits that the bond was given under a duress involving not only his life but the peace of a community and the undisputed sway of the national Government in the Territory of Utah, as will fully appear in the following recital:

In February, 1886, Utah was in the midst of that social revolution—since ended with perfect tranquillity. Among the causes of popular disquiet was the dictum of the district courts concerning cumulative offenses (afterward overruled by the Supreme Court of the United States), under which it was claimed that a man living with more than one wife could be arrested and punished on innumerable indictments simultaneously returned; that is, a separate indictment could legally be brought for every day in a period of three years. The strained construction placed upon the law often left a man in doubt as to whether he was transgressing against the idea of "constructive cohabitation," as it was called, and it was declared possible upon technical violation of the law to aggregate sentences of imprisonment and fine which would incarcerate a man for life and take all his earthly possessions. Under these circumstances the relation between the people and the representatives of Government was such that every thoughtful and patriotic person avoided sedulously adding any tension to the strain, believing that a better understanding would come and all differences be swept away.

On February 17, 1886, George Q. Cannon was carried into the United States marshal's office at Salt Lake City and was laid upon the floor. He was suffering from dangerous injuries received by a fall from the platform of a running express train. He was soaked in blood, his nose was broken, his face was gashed, and he had internal injuries which it was feared would prove fatal unless he was promptly removed from a place of mental anxiety and unnecessary physical distress. The judge of the United States district court was present and Mr. Cannon was required to plead to three charges of unlawful cohabitation, and his aggregate bonds were fixed at \$45,000. His attorneys protested that this requirement was unconstitutional; that the offense charged was made by the Edmunds law a mere misdemeanor; that the maximum penalty in each case was only six months imprisonment and \$300 fine; and that the usual bail, fixed by the same court in scores of such cases, was \$1,500. But the court refused to reduce the amount of the bail, and, actuated by a fear for his life, and still more by a fear that his incarceration and possible death might engender additional unhealthy feeling and demonstration in the community, he and his friends gave the bonds under protest.

Mr. Cannon remained in a precarious physical condition for many weeks. In the meantime there was much excitement, and it was threatened that under the plan of "segregation," as it was called, indictments would be multiplied against him to an extent which would insure his incarceration until relieved by death. The extraordinary bail which had been required gave reinforcement to this threat; and thus the very magnitude of the amounts demanded to assure his presence for trial was one of the principal causes of his failure to appear. For his personal fate at that hour he had little care, but it was believed by all his advisers that if he should meet the contemplated proceedings against him, in the highly wrought state of public feeling, the result must be disastrous in more than a personal sense. Dangerously sick, but still supremely desirous to see harmony instead of misunderstanding in Utah, he temporarily absented himself, and the bonds were pronounced forfeited. But as shown, he subsequently, when restored to comparative health, volunteered his presence before the United States tribunal in which all the proceedings had been taken, and suffered the sentences then imposed.

Since that time the acquiescence of the people of Utah in the Governmental demand has vindicated this applicant in suffering, for the sake of community quiet, what he then deemed a wrong, but which he believed Government would correct upon application; and that same acquiescence in which he has taken part justifies this Government, as he believes, in restoring to him the sum of \$25,000.

This applicant respectfully submits his claim, trusting in the just and statesman-like view of Congress and the President that he ought not to longer suffer a loss occasioned by a desire to avert unrest in Utah, and that the Government best vindicates the policy it has pursued by eliminating from that policy all unnecessary harshness and deprivation.

GEO. Q. CANNON.

